

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

NO. C 10-02935 JW

**ORDER DENYING STIPULATION**

In re Celera Corp. Derivative Litigation

\_\_\_\_\_/

Presently before the Court is a Stipulation and Proposed Order for New Briefing Schedule and Continuing Case Management Conference. (hereafter, "Stipulation," Docket item No. 26.) The Stipulation requests that the Court adjust the current briefing schedule in light of the schedule in a pending parallel Securities case. (Stipulation at 1-2.) Upon review, the Court does not find good cause to grant the Stipulation. The Court notes that the parties have fought to maintain this case as a separate action from the related case. (See Docket Item No. 11.) Further, the proposed schedule would effectively stay this case for five months pending the resolution of a Motion to Dismiss in the related case. (Stipulation ¶¶ 2-3.)

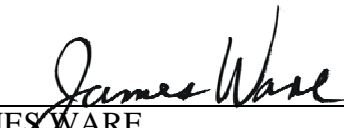
Accordingly, the Court DENIES the Stipulation and Proposed Order for New Briefing Schedule and Continuing Case Management Conference. However, since Defendants relied on the Stipulation and did not file a responsive pleading by the scheduled deadline, the Court readjusts the schedule as follows:

- (1) On or before **January 17, 2011**, Defendants shall file their anticipated Motion to Dismiss.

- (2) On or before **March 4, 2011**, Plaintiffs shall file their Opposition.
- (3) On or before **March 21, 2011**, Defendants shall file their Reply.
- (4) The hearing on the Motion to Dismiss is set for **April 11, 2011 at 9 a.m.**
- (5) The Court VACATES the March 28, 2011 Case Management Conference as premature and will set a new Conference date in its Order addressing the anticipated Motion, if necessary.

None of these dates may be modified without the Court's approval.

Dated: December 15, 2010

  
\_\_\_\_\_  
JAMES WARE  
United States District Judge

**THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

George Carlos Aguilar Gaguilar@robbinsumeda.com  
James S. Notis jnotis@gardylaw.com  
Jennifer Sarnelli jsarnelli@gardylaw.com  
Judson Earle Lobdell jlobdell@mofo.com  
Marc M. Umeda Mumeda@robbinsumeda.com  
Mark C. Gardy mgardy@gardylaw.com

**Dated: December 15, 2010**

**Richard W. Wieking, Clerk**

By: /s/ JW Chambers  
**Elizabeth Garcia**  
**Courtroom Deputy**